

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

JOSEPH E. LAWRENCE,

Plaintiff,

vs.

LARRY PASHA, et. al.,

Defendants.

CV 20–85–H–DWM

ORDER

Plaintiff Joseph E. Lawrence filed a civil rights complaint in November 2020, pursuant to 42 U.S.C. § 1983, alleging he was sexually assaulted by Defendant Larry Pasha, a correctional officer at the Montana State Prison, and that the other defendants failed to intervene. (*See* Docs. 1, 2.) Lawrence amended his complaint to include additional individual defendants that he alleged “were well aware of the ongoing problem of Pasha’s serial sexual predation of inmates at [the Prison], and the numerous [Prison Rape Elimination Act] claims that were being filed against Pasha,” (Doc. 52 at 14), as well as individual defendants he alleged were responsible for assigning Pasha to work in Lawrence’s “direct proximity . . . knowing full well the circumstances of plaintiff’s complaint,” (*id.* at 17).

This matter was stayed pending the resolution of Lawrence’s appeal of a similar state court case, which he filed in Montana’s Third Judicial District Court,

Powell County. (*See* Doc. 71.) After the Montana Supreme Court affirmed the lower state court's judgment in Defendants' favor, (Doc. 68-2), Lawrence's remaining constitutional claims were dismissed with prejudice, (Doc. 83).

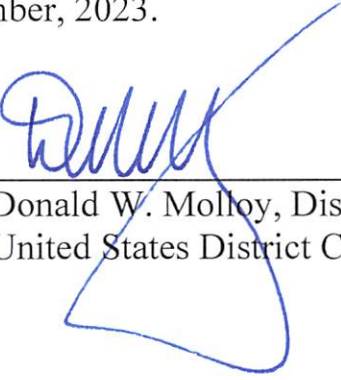
Lawrence timely appealed. (Doc. 86.) The Ninth Circuit referred the matter to this Court for the limited purpose of determining the issue of whether in forma pauperis status should continue on appeal or whether an appeal would be frivolous or taken in bad faith. (Doc. 88.)

As the dismissal Order discussed, Lawrence's constitutional claims have no arguable basis in fact or law. (*See* Doc. 83.) Thus, an appeal is frivolous.

O'Loughlin v. Doe, 920 F.2d 614, 617 (9th Cir. 1990). Accordingly,

IT IS ORDERED that, pursuant to 28 U.S.C. § 1915(a)(3), Lawrence's claims are frivolous, and an appeal would not be taken in good faith. Pursuant to Federal Rule of Appellate Procedure 24(a)(4), the Clerk is directed to immediately notify Lawrence and the Ninth Circuit Court of Appeals of this Order.

DATED this 28th day of September, 2023.



Donald W. Molloy, District Judge
United States District Court